

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

XI LI,

Petitioner.

Case # 17-CV-630-FPG

v.

DECISION AND ORDER

JEFFERSON B. SESSIONS,
Attorney General of the United States, et al.,

Respondents.

Pro se Petitioner Xi Li (“Petitioner”) filed this action seeking a Writ of Habeas Corpus under 28 U.S.C. § 2241. ECF No. 1. Petitioner alleges that he was ordered removed to the People’s Republic of China, but he has not been removed and instead has remained in the custody of the Department of Homeland Security (“DHS”) for over nine months pending deportation. *Id.* Due to this delay, Petitioner seeks to be released from custody.

The government has moved to dismiss this case as moot because Petitioner has been released from DHS custody. ECF Nos. 6, 6-1, 6-2. Petitioner did not respond to the government’s motion.

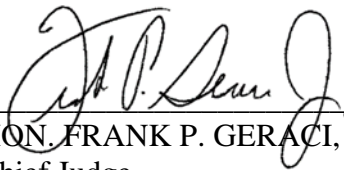
“Where an alien challenging his detention under 28 U.S.C. § 2241 is released during the pendency of his petition under an order of supervision, the petition is rendered moot.” *Harvey v. Holder*, 63 F.Supp. 3d 318, 320 (W.D.N.Y. 2014). Here, the uncontroverted evidence demonstrates that Petitioner was released from DHS custody on December 5, 2017. ECF No. 6-2, at 2. Accordingly, this action is moot and must be dismissed.

CONCLUSION

The government's motion to dismiss (ECF No. 6) is GRANTED because this case is moot. No certificate of appealability shall issue, because Petitioner has failed to make a substantial showing that he was denied a constitutional right. The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

Dated: January 10, 2018
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court